

ESTTA Tracking number: **ESTTA758683**

Filing date: **07/16/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	MD Now Medical Centers Inc.
Granted to Date of previous extension	07/17/2016
Address	2007 Palm Beach Lakes West Palm Beach, FL 33409 UNITED STATES
Attorney information	Richard Lehv Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES rlehv@fzllz.com, lapolzon@fzllz.com Phone:212-813-5928

Applicant Information

Application No	86393283	Publication date	01/19/2016
Opposition Filing Date	07/16/2016	Opposition Period Ends	07/17/2016
Applicant	Access Clinical Partners, LLC Suite 8 Menlo Park, CA 94025 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Urgent medical care centers
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Applicant Information

Application No	86393296	Publication date	01/19/2016
Opposition Filing Date	07/16/2016	Opposition Period Ends	
Applicant	Access Clinical Partners, LLC Suite 8 Menlo Park, CA 94025 UNITED STATES		


Goods/Services Affected by Opposition

Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Urgent medical care centers
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4695046	Application Date	06/23/2014
Registration Date	03/03/2015	Foreign Priority Date	NONE
Word Mark	MD NOW		
Design Mark			
Description of Mark	The mark consists of a composite logo consisting of the words "MD NOW" with a cross and arrow design element to the left.		
Goods/Services	Class 044. First use: First Use: 2014/06/00 First Use In Commerce: 2014/07/00 Physician and medical care services; urgent medical care services; walk-in medical services		

Attachments	86317928#TMSN.png(bytes) F2003031.PDF(130858 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Richard Lehv/
Name	Richard Lehv
Date	07/16/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Opposer's Ref: MDNO USA TC 1506081

In the Matter of Application Serial No. 86393283
Mark: GOHEALTH and Design
Filed: September 12, 2014
Published in the *Official Gazette*: January 19, 2016

In the Matter of Application Serial No. 86393296
Mark: GOHEALTH URGENT CARE and Design
Filed: September 12, 2014
Published in the *Official Gazette*: January 19, 2016

MD NOW MEDICAL CENTERS INC.,

Opposer,

-against-

ACCESS CLINICAL PARTNERS, LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, MD Now Medical Centers Inc., a corporation organized and existing under the laws of Florida, whose address is 2007 Palm Beach Lakes Boulevard, West Palm Beach, Florida 33409, believes it will be damaged by the registration of the marks shown in Applications Serial Nos. 86393283 and 86393296, and opposes those applications under the provisions of 15 U.S.C. § 1063.

As grounds for its opposition, Opposer, by its attorneys, Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer owns and uses the mark MD NOW, as well as the following Cross and Arrow Logo:



It uses the MD NOW mark and Cross and Arrow Logo in connection with physician and medical services; primary care services; urgent medical care services; walk-in medical services; occupational health services; and physical therapy services.

2. Opposer has registered a composite mark consisting of the Cross and Arrow Logo and MD NOW in the United States Patent and Trademark Office for “Physician and medical care services; urgent medical care services; walk-in medical services” under Registration No. 4,695,046 in International Class 44, based on use in commerce since at least July, 2014. This Registration was issued on March 3, 2015. The mark is as follows:



3. Opposer has applied to register the Cross and Arrow Logo under Application Ser. No. 86615832 for “Physician and medical care services; urgent medical care services; walk-in medical services” in International Class 44, filed April 30, 2015, based on use in commerce since at least July, 2014. This application has been suspended pending resolution of the two applications that are the subject of this Opposition.

4. Opposer has been using the Cross and Arrow Logo since long prior to any date on which applicant may rely.

5. In view of the foregoing, Opposer is the owner of statutory and common law rights in the Cross and Arrow Logo in connection with the foregoing services in the United States.

6. Applicant, Access Clinical Partners, LLC, filed Application Serial No. 86393283 for the mark GOHEALTH and Design for “Urgent medical care centers” in International Class 44 on September 12, 2014, alleging an intent to use the mark. This mark was published for opposition in the Trademark Official Gazette of January 19, 2016. The mark is shown below:



7. Applicant, Access Clinical Partners, LLC, filed Application Serial No. 86393296 for the mark GOHEALTH URGENT CARE and Design for “Urgent medical care centers” in International Class 44 on September 12, 2014, alleging an intent to use the mark. This mark was published for opposition in the Trademark Official Gazette of January 19, 2016. The mark is shown below:



8. Applicant's marks are confusingly similar to Opposer's Cross and Arrow Logo mark. The parties' marks create similar commercial impressions and are confusingly similar in meaning and appearance.

9. Not only are the marks confusingly similar, but also the parties' services are identical or closely related. Applicant intends to use its mark in connection with "Urgent medical care centers," while Opposer uses its Cross and Arrow Logo mark for "Physician and medical care services; urgent medical care services; walk-in medical services."

10. Upon information and belief, Applicant applied to register its marks with full knowledge of Opposer's rights in the well-known Cross and Arrow Logo and with full knowledge of Opposer's existing federal trademark registrations for a mark that includes the Cross and Arrow Logo for the identical and closely related services. Further, under 15 U.S.C. § 1072, the registration of Opposer's mark constitutes constructive notice of Opposer's claim of ownership of the Cross and Arrow Logo.

11. Applicant's applications and the presumption of exclusivity that would come from a registration to Applicant of a mark that includes a cross and arrow for identical services is inconsistent with the prior rights of Opposer in the well-known Cross and Arrow Logo and the rights of Opposer flowing from its own federal trademark registration.

12. The use by Applicant of a mark so confusingly similar to Opposer's mark for identical and highly related services is likely to create the mistaken impression that Applicant's services are rendered by, approved or licensed by, or are otherwise associated with Opposer or its services or that Applicant's services are endorsed, sponsored, or in some other way connected with Opposer. Any use of the Applicant's cross and arrow design in connection with "Urgent medical care centers" is likely to cause confusion or mistake or to deceive the public into the belief that the services offered under Applicant's marks are offered by or are otherwise authorized or sponsored by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13. By reason of the foregoing, Opposer will be damaged by the registration of the foregoing marks to Applicant.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that the registration of the marks in Applications Serial Nos. 86393283 and 86393296 be denied.

Dated: New York, New York
July 16, 2016

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: /Richard Lehv/
Richard Lehv
866 United Nations Plaza
New York, New York 10017
(212) 813-5900
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing notice of opposition is being served on July 16, 2016, by first class mail, postage prepaid, on the correspondent of record for applicant at the following address:

Nicole K McLaughlin, Esq.
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103-4196

/Richard Lehv/
Richard Lehv
Attorney for Opposer